

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREG ABBOTT, in his capacity as GOVERNOR  
OF THE STATE OF TEXAS, and THE STATE OF  
TEXAS,

Defendants.

Civil Action No. 1:23-cv-00853

I, Jennifer T. Pena, do declare as follows based on my personal knowledge, as well as information provided to me in the course of my official duties:

1. This declaration supplements my declarations of July 25, 2023, and August 14, 2023.
2. On August 30, 2023, the USIBWC and the MXIBWC conducted an on-site, joint (binational) topographic survey of the floating barrier that Texas deployed in the Rio Grande in the vicinity of Eagle Pass, Texas. Survey participants were Sidney Rouch (USIBWC), Adrian Vallejo (USIBWC), Dilaida Sanchez (USIBWC), John Claudio (USIBWC), and Roberto Enriquez (MXIBWC).
3. The reason for the August 30, 2023, survey was to verify the location of the buoys vis-à-vis the international boundary after Texas's relocation of the buoys in August 2023.
4. The joint survey recorded the locations of the buoys and concrete anchors of the line of buoys that Texas deployed approximately two miles downstream of the Camino Real International Bridge, in the vicinity of 28° 40' 21" N, 100° 30' 14" W. The survey horizontal datum was North American Datum of 1983, U.S. State Plane

1 Coordinate system Texas South Central Zone, U.S. Survey feet. The survey vertical  
2 datum was North American Vertical Datum of 1988.

- 3 5. Exhibit A is a true and correct copy of the final survey data, including the locations  
4 of the buoys and the anchors that were recorded in the joint binational survey. The  
5 first column in the spreadsheet is the survey point identification number. The second  
6 column is northing in feet. The third column is easting in feet. The fourth column is  
7 vertical ground elevation in feet. The fifth column describes the object surveyed.  
8 The surveyors recorded the western (Mexico-facing) side of each anchor or buoy.  
9 6. The survey data reflect that the total length of the floating barrier is approximately  
10 995 feet.  
11 7. Pursuant to Article II of the 1970 Treaty, the International Boundary Line (IBL) in  
12 this region is “the middle of the channel occupied by normal flow,” as determined by  
13 the IBWC and updated after periodic surveys. Consistent with Article II(C) of the  
14 1970 Treaty, the IBWC records the official IBL on aerial photographic mosaics of  
15 the Rio Grande. Under Article 25 of the 1944 Treaty, IBWC decisions that delineate  
16 changes to the official IBL “shall be recorded in the form of Minutes.” The current  
17 IBL delineation was recorded in 2009 as Minute 315 (see [https://www.ibwc.gov/wp-](https://www.ibwc.gov/wp-content/uploads/2023/04/Minute_315.pdf)  
18 [content/uploads/2023/04/Minute\\_315.pdf](https://www.ibwc.gov/wp-content/uploads/2023/04/Minute_315.pdf)).  
19 8. A comparison of the recorded locations of the buoys to the official IBL, as defined in  
20 Minute 315, establishes that the entire buoy line was located within the United States  
21 on August 30, 2023.  
22 9. Exhibit B is a true and correct copy of a figure prepared by USIBWC that plots the  
23 recorded locations of the buoys and anchors of the line of buoys from the joint  
24 binational survey against an approximation of the IBL as delineated by Minute 315,  
25 with United States territory on the east (righthand) side of the boundary and Mexican  
26 territory on the west (lefthand) side of the boundary.  
27  
28

1 10. The USIBWC acts as a public international organization when it conducts surveys  
2 along the IBL in concert with MXIBWC. For that reason, communications regarding  
3 such surveys that are exchanged between USIBWC and MXIBWC are considered  
4 the property and assets of the International Boundary and Water Commission, United  
5 States and Mexico, as an international organization. Longstanding IBWC policy  
6 prohibits the disclosure of all communications such as letters, technical information,  
7 studies, and data exchanged between the U.S. and Mexican Sections on such matters  
8 to anyone other than the two countries' foreign ministries, absent the concurrence of  
9 USIBWC and MXIBWC.

10 11. On September 14, 2023, MXIBWC expressed its concurrence in the joint binational  
11 survey results. The concurrence extends to both the survey data and the  
12 determinations in Paragraph 8 regarding the location of the floating barrier relative to  
13 the official IBL.  
14

15 12. On September 14, 2023, MXIBWC and USIBWC authorized the disclosure of the  
16 joint binational survey results to the public.  
17

18 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true  
19 and correct.

20 Executed on September 18, 2023

21 

22 \_\_\_\_\_  
23 Jennifer T. Pena  
24 USIBWC  
25 4191 N. Mesa  
26 El Paso, TX 79902  
27  
28

**Exhibit A to the September 18, 2023  
Declaration of Jennifer T. Pena**

3000	13431474	1486555	689.851	chk in opus	
3001	13431620	1486350	675.049	BUOY CL	
3002	13431617	1486349	675.053	Buoy	
3003	13431606	1486352	675.295	Buoy	
3004	13431591	1486358	675.483	Buoy	
3005	13431577	1486365	675.375	Buoy	
3006	13431563	1486371	675.62	Buoy	
3007	13431549	1486378	675.831	Buoy	
3008	13431535	1486383	675.668	Buoy	
3009	13431520	1486388	676.024	Buoy	
3010	13431505	1486393	676.05	Buoy	
3011	13431490	1486397	675.819	Buoy	
3012	13431475	1486402	675.616	Buoy	
3013	13431461	1486408	675.534	Buoy	
3014	13431446	1486413	675.552	Buoy	
3015	13431432	1486418	675.545	Buoy	
3016	13431417	1486424	675.989	Buoy	
3017	13431403	1486430	675.738	Buoy	
3018	13431388	1486436	675.549	Buoy	
3019	13431374	1486441	675.815	Buoy	
3020	13431359	1486446	675.616	Buoy	
3021	13431344	1486451	675.417	Buoy	
3022	13431330	1486455	675.589	Buoy	
3023	13431314	1486458	676.322	Buoy	
3024	13431299	1486462	676.132	Buoy	
3025	13431283	1486467	675.791	Buoy	
3026	13431268	1486472	676.194	Buoy	
3027	13431253	1486477	676.325	Buoy	
3028	13431238	1486481	676.05	Buoy	
3029	13431223	1486486	675.728	Buoy	
3030	13431207	1486491	676.2	Buoy	
3031	13431192	1486496	676.719	Buoy	
3032	13431177	1486501	675.593	Buoy	
3033	13431162	1486506	675.45	Buoy	
3034	13431147	1486510	675.773	Buoy	
3035	13431132	1486514	675.627	Buoy	
3036	13431116	1486519	675.848	Buoy	
3037	13431101	1486521	675.545	Buoy	
3038	13431085	1486525	676.117	Buoy	
3039	13431070	1486530	676.204	Buoy	
3040	13431055	1486534	675.986	Buoy	
3041	13431040	1486541	675.552	Buoy	
3042	13431025	1486546	675.52	Buoy	
3043	13431010	1486551	675.498	Buoy	
3044	13430995	1486557	675.045	Buoy	
3045	13430980	1486562	675.074	Buoy	
3046	13430964	1486566	674.924	Buoy	

3047	13430949	1486570	674.67	Buoy	
3048	13430933	1486574	674.522	Buoy	
3049	13430918	1486579	674.616	Buoy	
3050	13430903	1486583	673.943	Buoy	
3051	13430888	1486589	674.101	Buoy	
3052	13430873	1486593	673.552	Buoy	
3053	13430857	1486598	672.93	Buoy	
3054	13430842	1486603	673.362	Buoy	
3200	13430834	1486605	674.812	Anchor	
3055	13430827	1486608	673.874	Buoy	
3056	13430812	1486611	673.67	Buoy	
3057	13430796	1486615	674.162	Buoy	
3058	13430781	1486619	673.657	Buoy	
3059	13430766	1486624	673.795	Buoy	
3060	13430751	1486628	673.405	Buoy	
3061	13430737	1486633	673.389	Buoy	
3062	13430722	1486637	673.186	Buoy	
3063	13430707	1486640	673.672	Buoy	
3064	13430691	1486645	673.329	Buoy	
3065	13430676	1486650	673.139	Buoy	
3201	13430665	1486653	674.252	Anchor	
3202	13430666	1486655	673.66	Buoy	
3203	13430665	1486657	674.348	BUOY CL	
3204	13430711	1486644	676.687	BUOY CL	
3205	13430835	1486614	674.33	Anchor	
3206	13430791	1486627	673.449	Anchor	
3207	13430834	1486613	674.383	Anchor	
3208	13430853	1486608	674.459	Anchor	
3209	13430878	1486598	674.867	Anchor	
3211	13430940	1486577	675.781	Anchor	
3212	13430992	1486565	676.279	Anchor	
3213	13431016	1486555	676.586	Anchor	
3214	13431069	1486535	676.89	Anchor	
3215	13431095	1486532	676.932	Anchor	
3216	13431120	1486526	677.151	Anchor	
3217	13431145	1486516	677.014	Anchor	
3218	13431170	1486512	677.018	Anchor	
3219	13431195	1486505	677.269	Anchor	
3220	13431222	1486497	677.175	Anchor	
3221	13431247	1486490	677.171	Anchor	
3222	13431272	1486484	677.265	Anchor	
3223	13431300	1486476	677.119	Anchor	
3224	13431324	1486468	676.961	Anchor	
3225	13431348	1486459	677.094	Anchor	
3226	13431375	1486452	677.145	Anchor	
3227	13431399	1486442	677.251	Anchor	
3228	13431423	1486433	677.191	Anchor	

3229	13431449	1486423	677.203	Anchor	
3230	13431473	1486415	677.353	Anchor	
3231	13431497	1486406	677.402	Anchor	
3232	13431522	1486395	677.296	Anchor	
3233	13431546	1486387	677.013	Anchor	
3234	13431570	1486378	677.307	Anchor	
3235	13431595	1486373	676.586	Anchor	
3236	13431615	1486358	676.763	Anchor	
3237	13431639	1486350	676.517	Anchor	
3238	13431666	1486336	676.218	Anchor	
3239	13431692	1486338	676.486	Anchor	
3240	13431717	1486334	676.506	Anchor	
3241	13431661	1486325	675.765	Anchor	
3242	13431612	1486345	676.499	Anchor	
3243	13431588	1486354	676.762	Anchor	
3244	13431536	1486373	677.13	Anchor	
3245	13431515	1486380	677.268	Anchor	
3246	13431493	1486390	676.776	Anchor	
3247	13431467	1486398	677.148	Anchor	
3248	13431444	1486407	677.173	Anchor	
3249	13431419	1486418	676.814	Anchor	
3250	13431395	1486424	677.123	Anchor	
3251	13431371	1486433	677.178	Anchor	
3252	13431319	1486450	677.059	Anchor	
3253	13431295	1486457	677.142	Anchor	
3254	13431243	1486474	677.265	Anchor	
3255	13431219	1486482	677.239	Anchor	
3256	13431168	1486497	677.076	Anchor	
3257	13431143	1486504	677.144	Anchor	
3258	13431090	1486520	677.018	Anchor	
3259	13431066	1486527	677.057	Anchor	
3260	13431016	1486546	676.635	Anchor	
3261	13430991	1486552	676.627	Anchor	
3262	13430938	1486565	676.137	Anchor	
3263	13430914	1486575	676.266	Anchor	
3264	13430916	1486584	675.574	Anchor	
3265	13430851	1486597	674.922	Anchor	
3266	13430762	1486617	674.32	Anchor	
3267	13430740	1486624	673.893	Anchor	
3268	13430721	1486628	673.988	Anchor	
3269	13430767	1486638	673.527	Anchor	
3270	13430816	1486624	673.814	Anchor	

**Exhibit B to the September 18, 2023  
Declaration of Jennifer T. Pena**





# Eagle Pass / Piedras Negras

## Reference IBWC International Boundary Maps - 2008 - Ortho 154



### Legend

- USIBWC Eagle Pass Buoys 08/30/2023
- USIBWC Eagle Pass Anchors 08/30/2023
- US / Mexico International Boundary

Boundary line approximation represents the International Boundary Line as delineated during the latest binational agreement, concluded in 2008 in accordance with the Treaty of November 23, 1970. DigitalGlobe imagery collected on 05MAY2023.

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Master Planning Division  
IBWC-US Section